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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,324	10/31/2003	Yu-Hong Chang		8507

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EXAMINER

KREMER, MATTHEW J

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

05

<b>Office Action Summary</b>	<b>Application No.</b> 10/697,324	<b>Applicant(s)</b> CHANG, YU-HONG	
	<b>Examiner</b> Matthew J Kremer	<b>Art Unit</b> 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: "an" should be inserted before "integrated" in line 2; "the" before "electrochemical" should be "an" in line 3; "the" before "reaction" should be "a" in line 4; "the" before "test" should be deleted in line 4; "the" before "internet" should be "an" in line 7; "the" before "software" should be deleted in line 10; and "them" in line 12 should be "the transmitted data". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication to Kaylor et al. (Kaylor). Kaylor teaches a biological monitor 24 that includes a microprocessor that measures electrochemical monitor responses of a test strip 20 (paragraph 0200 of Kaylor), an internet server 76, and a web station 78. (Fig. 3 of Kaylor).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,186,145 to Brown (Brown '145) in view of U.S. Patent 6,233,539 to Brown (Brown '539). Brown '145 teaches a biological test system that includes a biological monitor that includes a blood glucose meter 54 (column 19, lines 45-48 of Brown '145). Brown '145 does not teach the particulars of the blood glucose meter. Brown '539 teaches a blood glucose meter (column 5, lines 16-23 of Brown '539) that would fulfill the requirements of providing a blood glucose meter as set forth in Brown '145. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the blood glucose meter of Brown '539 in the device of Brown '145 since Brown '145 requires the use of a blood glucose meter and Brown '539 teaches one such meter. In regard to claim 1, the combination teaches a biological monitor that includes a blood glucose meter 54 (column 19, lines 45-48 of Brown '145) and the biological monitor includes a microprocessor to measure the electrochemical monitor response of the reaction on a test strip (column 5, lines 16-23 of Brown '539). The results are transmitted through a communications link 130, which includes a port,

(column 11, lines 14-18 of Brown '145) and through a telephone system to an Internet server 118 (column 10, lines 58-61 and column 11, lines 14-18 of Brown '145). The data is sent to a web station 122 for data processing and storage. (column 10, lines 58-61 of Brown '145).

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,186,145 to Brown (Brown '145) in view of U.S. Patent 6,233,539 to Brown (Brown '539) as applied to claim 1, and further in view of U.S. Patent Application Publication 2003/0114753 to Sharma et al. (Sharma). The combination teaches that communications link 130 can be a combination of telephone line and modems. (column 11, lines 21-22 of Brown '145). Sharma teaches that serial ports are used to connect electronic equipment to modems and telephone lines. (paragraph 0041 of Sharma). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a serial port in the biological monitor as disclosed by Sharma since modems and telephone lines are disclosed and serial ports are used to connect electronic equipment to modems and telephone lines.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J Kremer whose telephone number is 703-605-0421. The examiner can normally be reached on Mon. through Fri. between 8:30 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mary Beth Jones can be reached on 703-308-3400. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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